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March 8, 1995

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**VIA HAND DELIVERY**

Mr. William F. Caton  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: **MD Docket No. 95-3**

Dear Mr. Caton:

Transmitted herewith on behalf of KUSK, Inc., licensee of television broadcast station KUSK(TV), Channel 7, Prescott, Arizona, are an original and four copies of its Supplemental Comments in the above-referenced rulemaking proceeding.

Should there be any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

*Nancy A. Ory*

Nancy A. Ory

Enclosures

024

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

In the Matter of  
Assessment and Collection  
of Regulatory Fees for  
Fiscal Year 1995

To: The Commission

MD Docket No. 95

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**SUPPLEMENTAL COMMENTS OF KUSK, INC.**

KUSK, Inc. ("KUSK"), licensee of Station KUSK(TV), Channel 7, Prescott, Arizona, by its attorneys, hereby supplements its Comments on the above-captioned Notice of Proposed Rule Making ("NPRM"), in order to provide additional information received since the filing date.

In its Comments, KUSK stated that its "Petition for Reduction of Regulatory Fees," filed on July 29, 1994, had yet to be considered and that no reduction in its 1994 fee, which was paid in full, had been granted. On February 15, 1995, counsel for KUSK received a letter from the Commission, dated February 10, 1995, granting KUSK's request to be treated as a VHF station located outside of the top 100 markets as to both the 1994 regulatory fee and the assessment of annual regulatory fees in the future. A copy of the letter is attached hereto as Exhibit A.

KUSK believes the Commission has correctly analyzed the effect of the initial 1994 assessment on stations, like KUSK(TV), that are actually located outside of established ADI markets but are not able to attain sufficient viewership for the creation of their own ADI. Rather than require a detailed case-by-case analysis of each licensee's individual financial circumstances in the case of separate reduction requests, the Commission should establish a separate category for fees assessed for television stations in "Non-ADI Markets," as proposed by KUSK. Such a ruling will avoid placing station licensees under the burden of providing detailed information to demonstrate a readily ascertainable fact, and will conserve the Commission's resources by eliminating the need to review and process this information.

Respectfully submitted,

KUSK, INC.

By:

  
Brian M. Madden  
Nancy A. Ory

Leventhal, Senter &  
Lerman  
2000 K Street, N.W.  
Suite 600  
Washington, DC 20006-1809  
(202) 429-8970

March 8, 1995

Its Attorneys

**EXHIBIT A**

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

February 10, 1995

OFFICE OF  
MANAGING DIRECTOR

Ms. Nancy A. Ory, Esquire  
Leventhal, Senter & Lerman  
2000 K Street, N.W.  
Suite 600  
Washington, D.C. 20006-1809

Re: KUSK, Inc.  
KUSK-TV  
Prescott, Arizona  
Fee Control #9408018835114003  
#9408308835156002

Dear Ms. Ory:

This is in response to your request, filed on behalf of KUSK, Inc. (KUSK), for reduction and partial refund of the Fiscal Year 1994 regulatory fee assessed for VHF Station KUSK-TV, Prescott, Arizona..

You state that, although KUSK-TV is located in the Phoenix, Arizona ADI (Area of Dominant Influence) Market, Prescott is located 95 miles from Phoenix, it does not serve Phoenix, and it cannot afford to pay the same annual regulatory fee as VHF network affiliates serving the Phoenix metropolitan area. You request therefore that the regulatory fee payable by KUSK be reduced to \$5000, which would be the regulatory fee for VHF stations located outside of the top 100 markets.

Our review of the record shows that KUSK-TV is within the Phoenix, Arizona Television Market, which constitutes the 21st largest television market. However, KUSK-TV's predicted Grade B contour does not reach Phoenix or any other major metropolitan area. Broadcasting & Cable Yearbook 1994, p. c-202, lists Prescott as a Non-ADI market, i.e., a single-county market whose "preponderance of viewing is not to the home market station." KUSK-TV's home county, Yavapai County, is assigned to the Phoenix ADI solely because the preponderance of its TV households view the programming of Phoenix Stations. According to Arbitron, there are 46,100 TV households in KUSK-TV's service area, which is smaller than the number of TV households in the top 100 markets.

Under these circumstances, we will regard Prescott as a non-top 100 market. Therefore, KUSK is assessed a regulatory fee for FY 1994 of \$5,000, the fee for a remaining market VHF Station. Absent significant changes in population or coverage area, KUSK-TV will be considered as a "remaining market" station in

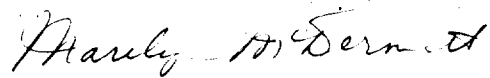
Ms. Nancy A. Ory, Esq.  
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succeeding years. A copy of this letter should be maintained and included with any future correspondence concerning the imposition of the regulatory fee for station KUSK-TV.

Accordingly, your request is granted. KUSK has paid \$16,000 in two installments, the FY 1994 regulatory fee for a VHF Station serving the Phoenix, Arizona market. Thus, it is entitled to a refund of \$11,000. A check, made payable to the maker of the original check and drawn in the amount of \$11,000, will be sent to you at the earliest practicable time.

If you have any questions concerning this refund, please call the Chief, Fee Section at (202) 418-1995.

Sincerely,



Marilyn J. McDermett  
Associate Managing Director  
for Operations